

Nru. 92

2. 3. 94

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli George Hyzler, M.P., Ministru għas-Sigurtà Soċjali f'isem l-Onor. Joe Fenech, M.P., Ministru tal-Gustizzja u moqri għall-Ewwel darba fis-Seduta tad-9 ta' Frar, 1994.

ATT biex jemenda l-Att dwar ir-Registrazzjoni ta' Artijiet, Kap. 296

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A **BILL** introduced by the Honourable George Hyzler, M.P., Minister for Social Security on behalf of the Hon. Joe Fenech, M.P., Minister of Justice and read the First time at the Sitting of the 9th February, 1994.

AN ACT to amend the Land Registration Act, Cap. 296.

RICHARD J. CAUCHI
Clerk to the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex jemenda l-Att dwar ir-Registrazzjoni ta' Artijiet, Kap. 296.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, ħareġ b'liġi dan li ġej:—

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1994 li jemenda l-Att dwar ir-Registrazzjoni ta' Artijiet, u għandu jinqara u jiftiehem haġa waħda ma l-Att dwar ir-Registrazzjoni ta' Artijiet, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu
fil-qosor u
bidu fis-sehh.
Kap. 296

(2) Id-dispożizzjonijiet li ġejjin ta' dan l-Att għandhom jibdew isehħu f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet u għanijiet differenti ta' dan l-Att.

2. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta'
l-artikolu 2
ta' l-Att
prinċipali.

(a) minnufih wara t-tifsira "area ta' registrazzjoni" għandhom jidhlu t-tifsiriet ġodda li ġejjin:

““area ta' registrazzjoni dikjaratorja” tfisser kull area f'Malta dikjarata bhala tali mill-Ministru bis-saħħa ta' l-artikolu 15 ta' dan l-Att;

“area ta' registrazzjoni obbligatorja” tfisser kull area f'Malta dikjarata mill-Ministru bhala area ta' registrazzjoni taħt l-artikolu 10 ta' dan l-Att u tinkludi kull area dikjarata jew meqjusa li hi area ta' registrazzjoni bil-liġi jew bis-saħħa ta' xi liġi oħra;”;

(b) minnufih wara it-tifsira "Ministru" għandha tiżdied it-tifsira ġdida li ġejja:

“persuna” tinkludi persuna fiżika jew ġuridika sew jekk dik il-persuna tkun korporali jew mhux korporali;”;

(ċ) minflok it-tifsira ta’ “reġistru” għandha tidhol it-tifsira li ġejja:

““reġistru” tinkludi il-ġurnal li fih jidhlu in-numru progressiv ta’ l-applikazzjonijiet magħmula, ir-reġistru ta’ titoli jew ir-reġistru ta’ l-ipoteki, u kull dokument ieħor li fuqu isiru notameti bis-saħħa ta’ dan l-Att, u “reġistrat” għandha tiftiehem skond hekk;” u

(d) minflok it-tifsira “area ta’ reġistrazzjoni” għandha tidhol it-tifsira li ġejja:

““area ta’ reġistrazzjoni” tfisser area ta’ reġistrazzjoni obligatorja jew area ta’ reġistrazzjoni dikjaratorja skond il-każ;”.

Emenda ta’
l-artikolu 4
ta’ l-Att
prinċipali.

3. L-artikolu 4 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikoli tiegħu (2) u (3) għandhom jiġu enumerati mill-ġdid (3) u (4) rispettivament;

(b) minnufih wara s-subartikolu (1) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

“(2) Persuna ma tkunx kwalifikata li tinħatar Reġistratur ta’ l-Artijiet kemm-il darba ma tkunx hadmet bhala avukat jew nutar pubbliku għal mill-anqas seba’ snin.”; u

(ċ) fis-subartikolu (3) tiegħu kif enumerat mill-ġdid, minflok il-kliem “hames snin.” għandhom jidhlu l-kliem “tliet snin.”.

Emenda ta’
l-artikolu 7
ta’ l-Att
prinċipali.

4. Fl-artikolu 7 ta’ l-Att prinċipali minflok il-kliem “jista’ jagħti lir-Reġistratur ta’ l-Artijiet” għandhom jidhlu l-kliem “għandu, fiż-żmien preskritt, jagħti lir-Reġistratur ta’ l-Artijiet”.

Emenda ta’
l-artikolu 10
ta’ l-Att
prinċipali.

5. L-artikolu 10 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) id-dispożizzjoni li hemm għandha tiġi enumerata mill-ġdid bhala subartikolu (1) tiegħu;

(b) fis-subartikolu (1) kif enumerat mill-ġdid, minflok il-kliem “u b’dak il-mod li jidhirlu xieraq.” għandhom jidhlu il-kliem “u b’kull mod ieħor li jidhirlu xieraq, u dawk l-arej għandhom ikunu magħrufa bhala Arej ta’ Reġistrazzjoni Obligatorji.”; u

(ċ) minnufih wara s-subartikolu (1) għandhom jiżdiedu is-subartikoli godda li ġejjin:

“(2) Il-Ministru jista’ wkoll, minn żmien għal żmien, b’ordni fil-Gazzetta jiddikjara arei jew parti minnhom bhala Arei ta’ Registrazzjoni Dikjaratorji, u għandu juri dawk l-arej b’riferenza għal mappa inkluża fl-ordni jew b’dak il-mod li jidhirlu xieraq.

(3) Il-Ministru jista’ wkoll, jiddikjara area li tkun parti bhala Area ta’ Registrazzjoni Obbligatorja u parti bhala Area ta’ Registrazzjoni Dikjaratorja, u barra minn dan l-istess area tista’ tkun dikjarata area ta’ registrazzjoni bħal dik sabiex isehhu il-finijiet u dispożizzjonijiet kollha ta’ dan l-Att jew x’uhud minnhom.”.

6. Minflok l-artikolu 11 ta’ l-Att prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta’ l-artikolu 11 ta’ l-Att prinċipali.

“Ligijiet ohra ma’ japplikawx għal arei ta’ registrazzjoni.

Kap. 16.

Kap. 12.

(1) Id-disposizzjonijiet ta’ l-artikolu 996 tal-Kodiċi Ċivili u ta’ l-artikolu 239 tal-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili, kif ukoll dispożizzjoni ohra ta’ dawk il-Kodiċijiet jew ta’ xi ligi ohra relattiva għar-registrazzjoni ta’ ċerti trasferimenti fir-Registru Pubbliku, għandhom jieqfu mis-sehh, kemm dwar artijiet sitwati f’xi area ta’ registrazzjoni kif ukoll dwar artijiet li jkunu ġew registrati u kull riferenza magħmula għar-Registru Pubbliku f’disposizzjoni ta’ xi ligi għandha tiftiehem li tinkludi riferenza għar-Registru ta’ l-Artijiet sakemm din tolqot l-art imsemmija f’dan l-artikolu.

(2) Tkun ir-responsabbiltà tan-nutar li jippubblika l-att li jara, permezz ta’ riċerka ufficjali, jekk id-dispożizzjonijiet tas-subartikolu (1) ta’ dan l-artikolu japplikawx jew le u dik ir-riċerka għandha tiġi mehmuża ma’ l-att.

(3) Kull att nutarili li għandu jiġi registrat fir-Registru Pubbliku jew fir-Registru ta’ l-Artijiet skond dan l-Att jew skond xi ligi ohra, għandu jkollu pjanta tas-sit li turi l-lokalità eżatta tal-proprjetà li għaliha l-att ikun jirreferi, kemm jekk dik il-proprjetà tkun f’area ta’ registrazzjoni sew jekk le, flimkien ma’ pjanta fuq skala kbira li tkun turi l-estensjoni kollha ta’ l-art u d-diversi partijiet tagħha li huma sugġetti għal servitujiet, pizijiet u drittijiet jew obbligazzjonijiet ohra, jew li n-natura tagħhom jew il-limitu ta’ proprjetà jew dritt jista’ jkun differenti mill-bqijja ta’ l-art; iżda jekk pjanta bħal dik tkun diġa’ tinsab mehmuża ma’ xi att ieħor jew, b’xi mod ieħor diġa’ tkun fil-pussess tar-registratur, ikun biżżejjed li ssir riferenza għaliha.”.

7. L-artikolu 12 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 12 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “effett dikjaratorju dwar il-proprjetà ta’, jew xi dritt reali fuq, beni immobbli, u kull kuntratt ta’ antikresi;” għandhom jidhlu l-

Att Nru. XVII
ta' l-1993.

kliem "effett dikjaratorju dwar il-proprietà ta', jew xi dritt reali fuq, beni immobbli (inkluż att magħmul skond l-Att ta' l-1993 dwar it-Taxxa fuq Dokumenti u Trasferimenti iżda eskluż kull att iehor ta' inventarju), u kull kuntratt ta' antikresi";

(ii) fil-paragrafu (è) tiegħu minflok il-kliem "b'bejgh bil-qorti," għandhom jidhlu l-kliem "b'bejgh bil-qorti, u kull fidi ta' ċens magħmul skond l-artikolu 1501 tal-Kodiċi Ċivili,";

(iii) minflok il-kliem "fil-kuntratt, sentenza jew bejgh bil-qorti" għandhom jidhlu l-kliem "fil-kuntratt, sentenza, bejgh bil-qorti jew fiċ-ċedola ta' fidi"; u

(iv) minflok il-kliem "bil-kuntratt bis-sentenza, jew bil-bejgh bil-qorti jew bl-ipoteka kif intqal qabel, ma jkun registrat f'isem il-persuna li jkollha dritt għalih u ma ssirx ir-registrazzjoni xierqa fir-registru dwar il-mod kif (jekk ikun hemm) dik l-art giet milquta." għandhom jidhlu l-kliem "bil-kuntratt, bis-sentenza, bil-bejgh bil-qorti, bil-fidi jew bl-ipoteka kif imsemmi qabel, tkun registrata fil-ġurnal bil-mod preskritt.";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "kuntratt, sentenza jew bejgh bil-qorti" għandhom jidhlu l-kliem "kuntratt, sentenza, bejgh bil-qorti jew fidi"; u

(è) minnufih wara s-subartikolu (2) tiegħu għandu jizjed is-subartikolu li ġej:

"(3) Meta xi art hija sugġetta għad-dispożizzjonijiet tal-paragrafu (b) jew (è) tas-subartikolu (1) ta' dan l-artikolu, ikun id-dmir ta' min qiegħed jitlob ir-registrazzjoni fir-Registru Pubbliku jew fir-Registru ta' l-Artijiet, skond il-każ, tas-sentenza, tat-trasferiment jew tal-fidi, li jipprezenta nota fir-registru tal-qorti flimkien ma' pjanta tas-sit u pjanta fuq skala kbira imsemmija fis-subartikolu (3) ta' l-artikolu 11 ta' dan l-Att, wara li dik il-pjanta tas-sit u pjanta fuq skala kbira ikunu approvati mill-qorti li tagħti s-sentenza jew li bl-awtorità tagħha jkun sar il-bejgh jew il-fidi."

Emenda ta'
l-artikolu 13
ta' l-Att
prinċipali.

8. L-artikolu 13 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minflok il-kliem "tmintax-il jum tax-xogħol" għandhom jidhlu l-kliem "hmistax-il ġurnata";

(b) fil-proviso tas-subartikolu (2) tiegħu minflok il-kelma "avukat" għandhom jidhlu l-kliem "nutar jew avukat"; u

(è) fis-subartikolu (3) tiegħu minflok il-kliem "tista' ssir talba għal hekk," għandhom jidhlu l-kliem "għandha ssir talba għal hekk,".

Revoka ta'
l-artikolu 14 ta'
l-Att prinċipali.

9. L-artikolu 14 ta' l-Att prinċipali għandu jithassar.

10. L-artikolu 15 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 15 ta' l-Att prinċipali.

(a) fil-paragrafu (ċ) tas-subartikolu (2) tiegħu minflok il-kliem “għal xi tip ta' titolu jew jedd fi jew fuq proprjetà”, għandhom jidhlu l-kliem “għan-natura tal-jedd li hemm fl-art jew fuq l-art”;

(b) fis-subartikolu (5) tiegħu minflok il-kliem “stabbiliti fl-artikolu 58” sal-kliem “jkun sar ir-reat” għandhom jidhlu l-kliem “stabbiliti taht is-subartikolu (6) ta' dan l-artikolu”; u

(ċ) minnufih wara s-subartikolu (5) tiegħu għandhom jizdeddu s-subartikoli li ġejjin:

“(6) Il-Ministru jista' b'ordni magħmul bis-saħħa tas-subartikolu (1) ta' dan l-artikolu jistabilixxi il-pieni li għalihom persuna hatja ta' reat skond is-subartikolu (5) ta' dan l-artikolu dwar dik l-ordni għandha tehel; dik il-piena m'għandhiex tkun aktar harxa minn dawk stabbiliti fl-artikolu 58 ta' dan l-Att.

(7) Id-dispożizzjonijiet ta' dan l-artikolu għandhom jitqiesu li ġew imharsa jekk l-applikazzjoni ssir minn xi parti interessata.”.

11. L-artikolu 16 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 16 ta' l-Att prinċipali.

(a) fis-subartikolu (6) tiegħu minflok il-kliem “Kull persuna li favuriha” għandhom jidhlu l-kliem “Il-Ministru jista' f'kull ordni bħal dak jordna li kull persuna li favuriha”; u

(b) minflok is-subartikoli (7) u (8) tiegħu għandu jidhol is-subartikolu li ġej:

“(7) Id-dispożizzjonijiet tas-subartikoli (5) u (6) ta' l-artikolu 15 ta' dan l-att għandhom *mutatis mutandis* japplikaw għal ordni magħmul mill-Ministru bis-saħħa ta' dan l-artikolu.”.

12. Minnufih wara l-artikolu 16 ta' l-Att prinċipali għandu jizdedd l-artikolu ġdid li ġej:

Zieda ta' l-artikolu 16A ġdid ma' l-Att prinċipali.

“Reġistrazzjoni ta' proprjetà ta' sidien mhux magħrufa.

16A. (1) Meta art jew sehem f'dik l-art, jew xi jeddijiet fiha jew fuqha huma reġistrabbli jew dikjarabbli bis-saħħa tad-dispożizzjonijiet ta' l-artikolu 15 jew 16 ta' dan l-Att, u s-sid jew sid presunt ma jkunx jista' jew ma jkunx irid japplika għar-reġistrazzjoni tagħha fiż-żmien preskritt, ir-reġistratur għandu, bla hsara għal kull responsabbiltà li jkollha xi persuna skond l-imsemmija artikoli, jirreġistra dik l-art jew jagħmel id-dikjarazzjoni xierqa f'isem is-sidien mhux magħrufa u dik l-art għandha tiġi amministrata mill-Gvern f'isem dawk is-sidien mhux magħrufa.

(2) Meta art tkun registrata jew dikjarata mir-registratur f'isem sidien mhux maghrufa, huwa ghandu wkoll jirregistra kull ipoteka, kawzjoni, servitù jew kull interess ieħor li jipprevali, jew kull jedd ieħor li għandu jiġi registrat skond dan l-Att skond kif jista' jolqot dik l-art u li huwa jista' jkun jaf bihom.

(3) Id-dispożizzjonijiet ta' l-artikolu 23 ta' dan l-Att għandhom japplikaw għall kull registrazzjoni jew dikjarazzjoni magħmula bis-saħħa tas-subartikoli (1) u (2) ta' dan l-artikolu.

(4) Wara li jagħqu tletin sena, kemm-il darba dik ir-registrazzjoni ma tkunx giet ikkuntestata b'suċċess skond is-subartikolu (3) ta' dan l-Att, dik l-art għandha tiġi registrata b'titolu assolut favur u f'isem il-Gvern ta' Malta, libera u hielsa minn piżijiet hlief għal dawk li kienu debitament registrati skond is-subartikolu (2) ta' dan l-artikolu:

Iżda jekk dawk il-jeddijiet stess kienu registrati f'isem sidien mhux maghrufa, l-art għandha tiġi registrata bħala libera u hielsa minn kull piż.

(5) Jeddijiet registrati f'isem sidien mhux maghrufa għandhom bl-istess mod jgħaddu favur il-Gvern wara li jgħaddu tletin sena minn meta jiġu dikjarati.”.

Emenda ta' l-artikolu 17 ta' l-Att prinċipali.

13. Fis-subartikolu (1) ta' l-artikolu 17 ta' l-Att prinċipali, minflok il-kliem “għad-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 12 u tas-subartikolu (2) ta' l-artikolu 14” għandhom jidhlu l-kliem “għal kull dispożizzjoni oħra”.

Sostituzzjoni ta' l-artikolu 21 ta' l-Att prinċipali.

14. Minflok l-artikolu 21 ta' l-Att prinċipali għandu jidhlo dan li ġej:

“Kif art tista' tiġi registrata.

21 (1) L-art tiġi registrata b'titolu ta' pussess.

(2) Titolu ta' pussess jista' jinbidel f'titolu assolut skond id-dispożizzjonijiet ta' dan l-Att.

(3) Meta art tkun registrata, din għandha titqies li giet hekk registrata b'seħħ mid-data li fiha l-applikazzjoni għar-registrazzjoni tkun giet imdaħhla fil-gurnal.”.

Emenda ta' l-artikolu 22 ta' l-Att prinċipali.

15. Fl-artikolu 22 ta' l-Att prinċipali minflok il-kliem “jeddijiet u l-interessi l-oħra kollha huma x'inhuma.” għandhom jidhlu l-kliem “jeddijiet u l-interessi l-oħra kollha huma x'inhuma:

Iżda jekk il-Ministru, bis-saħħa tad-dispożizzjonijiet ta' l-artikolu 16 ta' dan l-Att, jordna li xi jew kull jedd jew interessi li jipprevalu bħal dawk għandhom jiġu registrati, id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw dwar dawk il-jeddijiet

jew interessi li ghandhom jigu registrati iżda li ma jkunux ġew hekk registrati.”.

16. L-artikolu 23 ta' l-Att prinċipali għandu jiġi emendat kif ġej:—

Emenda ta' l-artikolu 23 ta' l-Att prinċipali.

(a) id-dispożizzjoni li hemm għandha tiġi enumerata mill-ġdid b'hal subartikolu (1) tiegħu;

(b) fis-subartikolu ġdid (1), il-kelma “biss” għandha tiġi imhassra; u

(ċ) minnufih wara s-subartikolu (1) għandu jidied dan is-subartikolu ġdid li ġej:

“(2) Bla hsara għall-artikoli 16A u 46 ta' dan l-Att, ir-registratur għandu, kemm il-darba ma tkunx saret applikazzjoni biex tinkiser il-preskrizzjoni jew kawzjoni oħra li għandha l-istess effett, jibdel titolu ta' pussess f'titolu assolut wara li jgħaddu għaxar snin mill-ewwel registrazzjoni.”.

17. L-artikolu 24 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 24 ta' l-Att prinċipali.

(a) in-nota fil-margini tiegħu għandha tiġi sostitwita b'dan li ġej: “Registrazzjoni bi kwalifika.”;

(b) fis-subartikolu (1) tiegħu, il-kliem “jkun mitlub titolu assolut, u” għandhom jithassru u minflok il-kliem minn “fir-registru;” sal-kliem “titolu kwalifikat.” għandhom jidhlu il-kliem “fir-registru.”; u

(ċ) fis-subartikolu (2) tiegħu minflok il-kliem “b'titolu kwalifikat” għandhom jidhlu l-kliem “b'titolu ikkwalifikat skond dan l-artikolu”, u minflok il-kliem minn “b'titolu assolut” sal-kliem “b'titolu kwalifikat” għandhom jidhlu l-kliem “b'titolu assolut jew b'titolu ta' pussess skond il-każ, kemm-il darba registrazzjoni b'hal dik”.

18. L-artikolu 26 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 26 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu minflok il-kliem “jew xi parti minnha bl-istess mod u safejn kien jista' daqslikieku l-art ma kenitx registrata.” għandhom jidhlu l-kliem “jew xi parti minnha, u fuq trasferiment b'hal dak għandha ssir applikazzjoni fi żmien hmistax-il ġurnata mid-data ta' l-att tat-trasferiment, u in-nutar li jipubblika l-att għandu jagħmel fih riferenza għan-numru taċ-ċertifikat tat-titolu li bih l-art trasferita tkun registrata; u meta nutar jonqos li jagħmel riferenza b'hal dik, ikun dovut mingħand dak in-nutar dritt żejjed għar-registrazzjoni ta' trasferiment b'hal dak kif jista' jkun preskritt.”; u

(b) minflok is-subartikolu (2) tiegħu għandu jidhol dan li ġej:

“(2) It-trasferiment ta' jeddijiet registrati fuq l-art jew parti minnha għandu jiġi kompletat mir-registratur billi jniżżel, fiċ-ċertifikat, lill-akkwired b'hal l-proprjetarju tal-

jeddijiet trasferiti fuq talba li ssir bis-saħħa tas-subartikolu (1) ta' dan l-artikolu ; u meta parti biss ta' l-art tkun trasferita, din għandha titniżżel ukoll, u għandhom jinħarġu ċertifikati separati li juru kif ikun il-pussess tal-partijiet differenti: u d-disposizzjonijiet tas-subartikolu (3) ta' l-artikolu 21 għandhom japplikaw *mutatis mutandis* għar-registrazzjoni ta' dawk it-trasferimenti.”.

Emenda ta' l-artikolu 27 ta' l-Att prinċipali.

19. L-artikolu 27 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “b'titolu kwalifikat” fis-subartikolu (2) tiegħu, għandhom jidhlu l-kliem “b'titolu assolut ikkwalifikat skond l-artikolu 24 ta' dan l-Att”; u

(b) fis-subartikolu (3) tiegħu minflok il-kliem “kieku l-art giet registrata b'titolu assolut.” għandhom jidhlu l-kliem “kieku l-art giet registrata b'titolu assolut:

Iżda meta l-art kienet registrata b'titolu ta' pussess ikkwalifikat skond l-artikolu 24 ta' dan l-Att, din id-disposizzjoni ma teffettwax jew ma tippregudikax it-twettiq ta' xi jedd jew interess li mir-registru jkun jidher li qiegħed jithalla barra.”.

Zieda ta' artikolu ġdid 28A ma' l-Att prinċipali.

20. Minnufih wara l-artikolu 28 ta' l-Att prinċipali għandu jidhol l-artikolu ġdid li ġej:

“Ipoteki fuq art sitwata f'area ta' registrazzjoni iżda mhux registrata.

28A. (1) Art sitwata f'area ta' registrazzjoni iżda li ma tkunx giet registrata, tista', bla ħsara għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu, tiġi ipotekata bi ftehim, bis-saħħa tal-liġi jew ta' sentenza sa l-istess limitu u bl-istess mod daqslikieku dik l-art kienet giet registrata.

(2) Ipoteka registrata skond is-subartikolu (1) ta' dan l-artikolu għandha tkun sugġetta għall-kondizzjoni li fid-data ta' l-applikazzjoni għar-registrazzjoni tagħha, id-debitur kien is-sid ta' l-art sugġetta għal dik l-ipoteka u li bl-ebda mod ma kien inabilitat milli jipoteka l-art, u tolqot l-art li tkun sugġetta għaliha biss sal-limitu li d-debitur ikun is-sid ta' dik l-art jew ikollu interess fuqha.

(3) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, ipoteka registrata skond is-subartikolu (1) ta' dan l-artikolu għandha tolqot kull persuna li takkwista l-art sa l-istess limitu u bl-istess mod daqslikieku dik l-art kienet registrata u dik l-ipoteka kienet ipoteka dwar dik l-art registrata.

(4) Meta r-registratur jirċievi applikazzjoni għar-registrazzjoni ta' l-art sugġetta għall-ipoteka registrata skond is-subartikolu (1) ta' dan l-artikolu,

huwa għandu, jekk il-persuna li tapplika għar reġistrazzjoni tkun id-debitur imsemmi fl-ipoteka jew it-titolu ikun ġej minn dak id-debitur li kien is-sid ta' dik l-art u sal-limitu li kien hekk sid, jirreġistra l-ipoteka bhala ipoteka fuq it-titolu għall-art hekk reġistrata.

(5) Bla hsara għad-dispożizzjonijiet ta' qabel ta' dan l-artikolu, ipoteka reġistrata skond is-subartikolu (1) ta' dan l-artikolu għandu jkollha l-istess effett daqs kawzjoni depożitata mar-reġistratur fis-sens li l-art sugġetta għall-ipoteka m'għandhiex tiġi reġistrata għall-ewwel darba favur xi persuna sakemm jiġi notifikat avviz lill-proprjetarju ta' l-ipoteka; u s-subartikolu (3) ta' l-artikolu 35 u l-artikolu 37 ta' dan l-Att għandhom japplikaw għal proprjetarju ta' ipoteka reġistrata skond is-subartikolu (1) ta' dan l-artikolu l-istess kif japplikaw għal persuna li tagħmel il-kawżjoni.”.

21. Minflok l-artikolu 30 ta' l-Att prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 30 ta' l-Att prinċipali.

“Ipoteka tkun effettiva biss jekk reġistrata.

30. Ipoteka ma tolgotx persuna li takkwista xi art reġistrata jew jedd fuqha kemm-il darba l-ipoteka ma tkunx imħarsa b'reġistrazzjoni fir-reġistru. Meta issir reġistrazzjoni bħal dik għandha titqies li tkun saret fid-data li fiha l-applikazzjoni tagħha tkun reġistrata fil-ġurnal.”.

22. Fl-artikolu 31 ta' l-Att prinċipali minflok il-kliem “li bih ikunu ġew reġistrati fir-reġistru, u mhux skond l-ordni li bih ikunu ġew maħluqa.” għandhom jidhlu l-kliem “in-numru progressiv relattiv tagħhom fil-ġurnal.”.

Emenda ta' l-artikolu 31 ta' l-Att prinċipali.

23. L-artikolu 32 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 32 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu minflok il-kliem “L-Att dwar ir-Reġistru Pubbliku.” għandhom jidhlu l-kliem “L-Att dwar ir-Reġistru Pubbliku, u d-dispożizzjonijiet ta' l-artikolu 12 ta' dan l-Att għandhom japplikaw ukoll għal dawk it-trasferimenti.”;

(b) fis-subartikolu (2) tiegħu minflok il-kliem “iżda min jagħmel it-trasferiment għandu jitqies li jibqa' s-sid ta' l-ipoteka sakemm l-isem tal-persuna li favur tagħha jsir it-trasferiment jiġi reġistrat fir-reġistru dwarha.” għandhom jidhlu l-kliem “u r-reġistratur għandu johroġ ċertifikat ta' ipoteka fejn jindika d-dettalji relattivi għal dik l-ipoteka bil-mod preskritt, u għandu wkoll iniżżel in-numru ta' l-ipoteka fuq iċ-ċertifikat ta' titolu meta dan jiġi kompletat.”; u

(ċ) minnufih wara s-subartikolu (2) tiegħu għandu jizdied is-subartikolu li ġej:

“(3) Id-dispożizzjonijiet ta’ l-artikolu 26 ta’ dan l-Att għandhom *mutatis mutandis* japplikaw għat-trasferimenti ta’ ipoteki taht dan l-artikolu.”.

Emenda ta’
l-artikolu 33 ta’
l-Att prinċipali.

24. L-artikolu 33 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) id-dispożizzjoni li hemm għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1); u

(b) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid għandu jiżdied dan is-subartikolu li ġej:

“(2) L-ipoteki għandhom jispiċċaw bl-istess mod kif provdut fil-Kodiċi Ċivili fuq kif jispiċċaw l-ipoteki u privileġġi.”.

Emenda ta’
l-artikolu 34 ta’
l-Att prinċipali.

25. Minflok is-subartikolu (3) ta’ l-artikolu 34 ta’ l-Att prinċipali għandu jidhol dan li ġej:

“(3) Ir-registrazzjoni ta’ suċċessur minflok il-proprjetarju taht dan l-artikolu jista’ jiġi ikkwalifikat bl-istess mod kif provdut fl-artikolu 24 ta’ dan l-Att ukoll jekk l-art tkun registrata minghajr dik il-kwalifika.”.

Emenda ta’
l-artikolu 35 ta’
l-Att prinċipali.

26. L-artikolu 35 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu minflok il-kliem “f’art li għadha mhijiex registrata li tagħtiha l-jedd li toġġezzjona” għandhom jidhlu l-kliem “f’art li għadha mhijiex registrata jew li dwarha ebda applikazzjoni għall-ewwel registrazzjoni għadha ma giet magħmula, li tagħtiha l-jedd li toġġezzjona”;

(b) is-subartikoli (2) u (3) li hemm għandhom jiġu enumerati mill-ġdid (3) u (4) rispettivament; u

(ċ) minnufih wara s-subartikolu (1) tiegħu għandu jiżdied is-subartikolu li ġej:

“(2) Minkejja kull liġi oħra, kull interruzzjoni ta’ preskrizzjoni, kif ukoll kull jedd iehor relattiv għal projbizzjoni ta’ trasferiment ta’ proprjetà b’att *inter vivos*, għandu jkun bla effett dwar art f’area ta’ registrazzjoni kemm-il darba ma tkunx registrata bħala kawzjoni fir-Registru ta’ l-Artijiet bil-mod preskritt.”.

Emenda ta’
l-artikolu 36 ta’
l-Att prinċipali.

27. Is-subartikolu (1) ta’ l-artikolu 36 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (e) tiegħu minflok il-kliem “dik l-art,” għandhom jidhlu il-kliem “dik l-art; jew”; u

(b) minnufih wara l-paragrafu (e) tiegħu, għandu jiżded il-paragrafu li ġej:

“(f) li għandu interess jew jedd kif imsemmi fis-subartikolu (2) ta’ l-artikolu 35 ta’ dan l-Att,”.

28. Minnufih wara s-subartikolu (4) ta’ l-artikolu 37 ta’ l-Att prinċipali għandhom jiżdedu dawn is-subartikoli ġodda li ġejjin:

Emenda ta’
l-artikolu 37 ta’
l-Att prinċipali.

“(5) Persuna ma tistax titqies li tkun irregiŋtrat kawzjoni mingħajr raġuni tajba għall-finijiet tas-subartikolu (3) ta’ dan l-artikolu, sa fejn u sal-limitu li, fil-pjanti depożitati mal-kawzjoni, b’*bona fede* u mingħajr negligenza, hija setgħet tinkludi art li ma kellhiex tiġi hekk inkluża.

(6) Id-depożitu ta’ kawzjoni ma hijiex applikazzjoni għar-regiŋtrazzjoni tal-pretensjoni jew tat-titolu li l-kawzjoni tkun ġiet depożitata bi protezzjoni tagħha u ma teżentax lill-persuna li tiddepożita l-kawzjoni mill-presentazzjoni tal-applikazzjonijiet rilevanti, jekk ikun il-każ, għar-regiŋtrazzjoni ta’ xi titolu jew pretensjoni.”.

29. It-Taqsimiet VA u VI ta’ l-Att prinċipali għandhom jiġu mhassra.

Thassir
tat-Taqsimiet
VA u VI ta’
l-Att prinċipali.

30. Is-subartikolu (1) ta’ l-artikolu 43 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’
l-artikolu 43 ta’
l-Att prinċipali.

(a) minflok il-paragrafu (e) tiegħu għandu jidhol dan li ġej:

“(e) fil-każ ta’ titolu ta’ pussess jew titolu ikkwalifikat skond l-artikolu 24 ta’ dan l-Att, il-jeddijiet, l-interess u s-setgħat kollha imhollija barra mill-effett ta’ regiŋtrazzjoni;” u

(b) minnufih wara l-paragrafu (h) tiegħu għandu jidhol il-paragrafu li ġej:

“(hh) privileġġi speċjali u ipoteki speċjali li huma ta’ piż fuq l-art u regiŋtrati fir-Regiŋstru Pubbliku qabel ma l-art milqutgħa tkun ġiet inkluża f’area ta’ regiŋtrazzjoni;”.

31. Minflok is-subartikolu (1) ta’ l-artikolu 49 ta’ l-Att prinċipali għandu jidhol dan li ġej:

Emenda ta’
l-artikolu 49 ta’
l-Att prinċipali.

“(1) (a) Meta jagħlaq iż-żmien imsemmi fis-subartikolu (2) ta’ l-artikolu 23 ta’ dan l-Att, ir-regiŋtratur għandu, bla hsara għas-subartikolu li ġej ta’ dan l-artikolu u wara li jagħti dak l-avviż, jekk ikun hemm, kif jista’ jiġi preskritt, jirregiŋtra dak it-titolu bħala titolu assolut kemm jekk il-proprjetarju jagħti l-kunsens tiegħu għal dik ir-regiŋtrazzjoni, sew jekk ma jagħtihx.

(b) Meta r-regiŋtratur ikun soddisfatt li jew bħala riżultat ta’ aktar provi li jingiebulu jew li b’mod iehor ikollu fil-

pussess tiegħu, jew bhala riżultat ta' żmien, jew b'riżultat tat-tnejn, huwa jista', bla hsara għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu u kull dispożizzjoni oħra ta' dan l-att, wara li jinghataw dawk l-avviżi, jekk ikun hemm, kif jista' jiġi preskritt, iħassar kull kwalifika imniżżla fir-reġistru skond dan l-Att, kemm jekk il-proprjetarju jagħti l-kunsens tiegħu għal dak it-thassir sew jekk ma jagħtix."

Emenda ta' l-artikolu 57 ta' l-Att prinċipali.

32. Fis-subartikolu (1) ta' l-artikolu 57 ta' l-Att prinċipali minflok il-kliem "jew f'xi ċertifikat ta' art jew ċertifikat ta' ipoteka" għandhom jidhlu l-kliem "jew xi dokument ieħor li hemm fir-Registru ta' l-Artijiet".

Emenda ta' l-artikolu 59 ta' l-Att prinċipali.

33. Minflok il-paragrafu (p) tas-subartikolu (2) ta' l-artikolu 59 ta' l-Att prinċipali għandu jidhol dan li ġej:

"(p) jipprovdi għal kull haġa anċillari għal jew konsegwenzjali għal komputerizzazzjoni tar-Registru ta' l-Artijiet;"

Emenda tat-"Taqsim Ta' L-Att" ta' l-Att prinċipali.

34. It-Taqsima VA u titolu korrispondenti u t-Taqsima VI u titolu korrispondenti fit-"Taqsim Ta' L-Att" fl-Att prinċipali għandhom jithassru.

Dispożizzjonijiet transitorji.

35. (1) Meta jiġi fis-seħh l-artikolu 29 ta' dan l-Att, ebda applikazzjoni għal ipoteka kawzjonali ma għandha tintlaqa', u kull ipoteka kawzjonali registrata fir-Registru ta' l-Artijiet qabel il-bidu fis-seħh ta' l-imsemmi artikolu għandha titqies bhala ipoteka registrata skond l-artikolu 28A kif imdahhal bl-artikolu 20 ta' dan l-Att.

(2) Iċ-Ċertifikat ta' l-Art u ta' l-Ipoteki kollha mahruġa qabel il-bidu fis-seħh ta' l-artikolu 29 ta' dan l-Att għandhom ikunu ammissibbli f'xhieda biss bhala li huma prova tal-kontenut tagħhom fid-data li jkunu nharġu.

(3) Meta qabel il-bidu fis-seħh ta' l-artikolu 9 ta' dan l-Att, fil-ftuħ ta' suċċessjoni ta' xi persuna, it-titolu ta' l-art inkluża fil-wirt u sitwata f'xi area ta' registrazzjoni ma tkunx ġiet registrata f'isem il-persuni li favur tagħhom dik l-art setgħat għaddiet, għandha titqies illi d-dispożizzjonijiet ta' l-artikolu 14 ta' l-Att prinċipali, kif kienu fis-seħh qabel il-bidu fis-seħh ta' l-artikolu 9 ta' dan l-Att, ma kienux japplikaw għal dik l-art;

Iżda r-Registratur ta' l-Artijiet jista', wara li jagħti avviż kif jidhirlu xieraq, jirreġistra dik l-art f'isem il-persuni li favur tagħhom dik l-art setgħet għaddiet jew f'isem is-suċċessuri tagħhom fit-titolu, skond id-dispożizzjonijiet ta' l-Att prinċipali kif emendat b'dan l-Att, u d-dispożizzjonijiet ta' l-Att prinċipali li jagħtu s-setgħa lill-imsemmi registratur li jitlob persuna tipproduċi xi dokument jew tagħrif għandhom japplikaw ukoll għall-finijiet ta' dan il-proviso.

(4) It-titoli għall-art registrata bis-saħħa tal-Avviż Legali Numru 37 ta' l-1983, u elenkati fis-subartiklu li ġej wara dan l-artikolu għandhom iitqiesu li ġew debitament u regolarment registrati skond id-

dispożizzjonijiet ta' l-Att prinċipali u kull transazzjoni ta' dik l-art wara il-bidu fis-sehħ ta' dan is-subartikolu għandu jkun registrabbli fir-Registru ta' l-Artijiet bhallikieku dik l-art kienet sitwata f'area ta' registrazzjoni:

Iżda kull trasferiment jew ipoteka dwar dik l-art registrata fir-Registru Pubbliku wara l-hruġ tal-imsemmi Avviż Legali u qabel il-bidu fis-sehħ ta' dan is-subartikolu għandu jitqies li huwa ta' interess li jipprevali u d-dispożizzjonijiet ta' l-artikolu 43 ta' l-Att prinċipali għandhom japplikaw għalih.

(5) It-titoli ta' l-art li għalihom is-subartikolu (4) ta' dan l-artikolu japplika huma dawn li ġejjin:

Miċ-Ċertifikat ta' Titolu Numru 547200001 saċ-Ċertifikat ta' Titolu Numru 547200009 iż-żewġ numri inklużi.

(6) Meta qabel il-bidu fis-sehħ ta' dan l-Att, titolu kwalifikat ġie mahruġ mir-registratur skond id-dispożizzjonijiet ta' l-Att prinċipali kif fis-sehħ qabel il-bidu fis-sehħ ta' dan l-Att, għandu jitqies li huwa titolu registrat skond id-dispożizzjonijiet korrispondenti ta' l-Att prinċipali kif emendat bid-dispożizzjonijiet ta' dan l-Att, ikkwalifikat skond l-artikolu 24 ta' l-Att prinċipali kif emendat bid-dispożizzjonijiet ta' dan l-Att.”.

Għanijiet u Raġunijiet

L-Għan ewlieni ta' dan l-Abbozz huwa biex iħaffef ir-registrazzjoni ta' titoli fir-Registru ta' l-Artijiet u b'dan li jkun possibli li tintemm r-registrazzjoni totali ta' l-art kollha f'Malta fi żmien qasir. L-Abbozz jipprovdi wkoll għal miżuri oħra dwar it-thaddim aħjar tar-Registru ta' l-Artijiet.

**A BILL
entitled**

AN ACT to amend the Land Registration Act, Cap. 296.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and
commencement.
Cap. 296

1. (1) This Act may be cited as the Land Registration (Amendment) Act, 1994, and shall be read and construed as one with the Land Registration Act, hereinafter referred to as “the principal Act”.

(2) The following provisions of this Act shall come into force on such date as the Minister responsible for justice may appoint by notice in the Gazette, and different dates may be so appointed for different provisions and purposes of this Act.

Amendment of
section 2 of the
principal Act.

2. Section 2 of the principal Act shall be amended as follows:

(a) immediately after the definition of “charge” there shall be inserted the following new definitions:

“ “compulsory registration area” means any area in Malta declared by the Minister to be a registration area under section 10 of this Act and includes any area declared or deemed to be a registration area by or under any other law;

“declaratory registration area” means any area in Malta declared as such by the Minister in virtue of section 15 of this Act;”;

(b) immediately after the definition of “overriding interests” there shall be added the following new definition:

“person” includes a physical or legal person, whether such person is corporate or unincorporate;”;

(c) for the definition of “register” there shall be substituted the following:

“register” includes the day-book containing the progressive number of applications submitted, the register of titles or the register of charges, and any other document on which annotations are to be made in virtue of this Act, and “registered” shall be construed accordingly;” and

(d) for the definition of “registration area” there shall be substituted the following:

“registration area” means a compulsory registration area or a declaratory registration area as the case may be;”.

3. Section 4 of the principal Act shall be amended as follows:

Amendment of section 4 of the principal Act.

(a) the present subsections (2) and (3) thereof shall be renumbered (3) and (4) respectively;

(b) immediately after subsection (1) thereof there shall be added the following new subsection:

“(2) A person shall not be qualified to be appointed Land Registrar unless he is an advocate or a notary public of not less than seven years’ standing.”; and

(c) in subsection (3) thereof as renumbered, for the words “five years’ standing.” there shall be substituted the words “three years’ standing.”.

4. In section 7 of the principal Act, for the words “may furnish to the Land Registrar” there shall be substituted the words “shall, within the prescribed time, furnish to the Land Registrar”.

Amendment of section 7 of the principal Act.

5. Section 10 of the principal Act shall be amended as follows:

Amendment of section 10 of the principal Act.

(a) the present provision shall be renumbered as subsection (1) thereof;

(b) in subsection (1) as renumbered, for the words “and in such other manner as he may deem appropriate.” there shall be substituted the words “and in such other manner as he may deem appropriate, and such areas shall be known as Compulsory Registration Areas.”; and

(c) immediately after subsection (1) there shall be added the following new subsections:

“(2) The Minister may also, from time to time, by order in the Gazette declare areas or parts thereof to be Declaratory Registration Areas, and shall define such areas by reference to a map included in the order or in such manner as he may deem appropriate.

(3) The Minister may also declare an area to be partly a Compulsory Registration Area and partly a Declaratory Registration Area, and moreover the same area may be declared to be such a registration area for giving effect to all or any of the purposes and provisions of this Act.”.

Substitution of section 11 of the principal Act.

Cap. 16.

Cap. 12.

6. For section 11 of the principal Act there shall be substituted the following:

“Inapplicability of other laws to registration areas.

11. (1) The provisions of section 996 of the Civil Code and of section 239 of the Code of Organisation and Civil Procedure, as well as any other provision of those Codes or of any other law relative to the registration of certain transfers in the Public Registry, shall cease to be operative both in respect of land situated in any registration area and also in respect of land that has been registered and any reference made to the Public Registry in any provision of any law shall be construed as including a reference to the Land Registry in so far as it concerns the land referred to in this section.

(2) It shall be the responsibility of the notary publishing the deed to ascertain, through an official search, whether the provisions of subsection (1) hereof apply or not and such search shall be attached to the deed.

(3) Every notarial act registerable in the Public Registry or in the Land Registry in accordance with this Act or any other law, must contain a site plan showing the exact location of the property to which the deed refers, whether such property is in a registration area or not, together with a large scale plan showing the full extent of the land and the various parts thereof which are subject to easements, servitudes, burthens and other rights or obligations, or of which the nature of or extent of the ownership or right may be different from the rest of the land; provided that where such a plan is already attached to any other deed or, is already otherwise in the possession of the registrar, a reference thereto shall suffice.”.

Amendment of section 12 of the principal Act.

7. Section 12 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof:

(i) in paragraph (a) thereof, for the words “declaratory effect as to the ownership of, or any real right over, immovable property, and every contract of antichresis;” there shall be substituted the words “declaratory effect as to the ownership of, or any real right over, immoveable property

(including a deed made for the purpose of the Duty on Documents and Transfers Act, 1993, but excluding any other deed of inventory), and every contract of antichresis;”;

Act No. XVII
of 1993.

(ii) in paragraph (c) thereof, for the words “by judicial sale,” there shall be substituted the words “by judicial sale, and every redemption of groundrent effected in accordance with Section 1501 of the Civil Code,”;

(iii) for the words “in the contract, judgement or judicial sale” there shall be substituted the words “in the contract, judgement, judicial sale or in the schedule of redemption”; and

(iv) for the words “by any contract, judgement, judicial sale or hypothec as aforesaid, is registered in the name of the person entitled thereto and an appropriate entry is made in the register of the manner (if any) in which such land is affected.” there shall be substituted the words “by any contract, judgement, judicial sale, redemption or hypothec as aforesaid, is registered in the day-book in the manner prescribed.”;

(b) in subsection (2) thereof, for the words “contract, judgement or judicial sale” there shall be substituted the words “contract, judgement, judicial sale or redemption”; and

(c) immediately after subsection (2) thereof there shall be added the following subsection:

“(3) Where any land is subject to the provisions of paragraph (b) or (c) of subsection (1) of this section, it shall be the duty of the party requesting the registration in the Public Registry or the Land Registry as the case may be, of the judgement, conveyance or redemption, to file a note in the registry of the court together with the site plan and large scale plan referred to in subsection (3) of section 11 of this Act, after such site plan and large scale plan has been approved by the court emanating the judgement or under whose authority the sale or redemption is made.”.

8. Section 13 of the principal Act shall be amended as follows:

Amendment of
section 13 of the
principal Act.

(a) in subsection (1) thereof for the words “eighteen working days” there shall be substituted the words “fifteen days”;

(b) in the proviso to subsection (2) thereof for the words “an advocate” there shall be substituted the words “a notary or an advocate”; and

(c) in subsection (3) thereof, for the words “application therefor may be made,” there shall be substituted the words “application therefor shall be made.”.

Deletion of section 14 of the principal Act.

9. Section 14 of the principal Act shall be repealed.

Amendment of section 15 of the principal Act.

10. Section 15 of the principal Act shall be amended as follows:

(a) in paragraph (c) of subsection (2) thereof, for the words "to any type of title or right in or over the property" there shall be substituted the words "to the nature of the right in or over the land";

(b) in subsection (5) thereof for the words "established in section 58" to the words "the offence is committed" there shall be substituted the words "established under subsection (6) of this section"; and

(c) immediately after subsection (5) thereof there shall be added the following subsections:

"(6) The Minister may in any order made in virtue of subsection (1) of this section establish the penalties to which a person guilty of an offence in accordance with subsection (5) hereof in relation to such order shall be liable; such penalty shall not be more severe than those established in section 58 of this Act.

(7) The provisions of this section shall be deemed to have been complied with if the application is submitted by any interested party."

Amendment of section 16 of the principal Act.

11. Section 16 of the principal Act shall be amended as follows:

(a) in subsection (6) thereof, for the words "Any person in whose favour" there shall be substituted the words "The Minister may in any such order provide that any person in whose favour"; and

(b) for subsections (7) and (8) thereof there shall be substituted the following subsection:

"(7) The provisions of subsections (5) and (6) of section 15 of this Act, shall *mutatis mutandis* apply to an order made by the Minister under this section."

Addition of new Section 16A to the principal Act.

12. Immediately after section 16 of the principal Act there shall be added the following new section:

"Registra-
tion of
property of
unknown
owners.

16A. (1) Where land or a share in such land, or any rights in or over it are registerable or declarable in virtue of the provisions of section 15 or 16 of this Act, and the owner or presumed owner is unable or unwilling to apply for its registration within the time prescribed, the registrar shall, without prejudice to any liability incumbent on any person under the said sections, register such land or make the

appropriate declaration on behalf of unknown owners and such land shall be administered by the Government on behalf of such unknown owners.

(2) Where land is registered or declared on behalf of unknown owners by the registrar, he shall also register any charges, cautions, servitudes or other overriding interests, or any other right registerable in accordance with this Act as may affect such land and of which he may be aware.

(3) The provisions of section 23 of this Act shall apply to any registration or declaration made in virtue of subsections (1) and (2) of this section.

(4) Upon the lapse of thirty years, unless the registration shall have been successfully challenged in terms of subsection (3) of this Act, such land shall be registered with absolute title in favour of and in the name of the Government of Malta, free and unencumbered except for such rights that were duly registered in accordance with subsection (2) of this section:

Provided that if such rights were themselves registered on behalf of unknown owners, the land shall be registered as free and unencumbered.

(5) Rights registered on behalf of unknown owners shall in like manner pass in favour of the Government upon the lapse of thirty years from their declaration.”.

13. In subsection (1) of Section 17 of the principal Act, for the words “the provisions of subsection (2) of section 12 and of subsection (2) of section 14” there shall be substituted the words “any other provision”.

Amendment of section 17 of the principal Act.

14. For section 21 of the principal Act, there shall be substituted the following:

Substitution of section 21 of the principal Act.

“How land may be registered.

21. (1) Land shall be registered with a possessory title.

(2) A possessory title shall be converted into an absolute title in accordance with the provisions of this Act.

(3) Where land is registered, it shall be deemed to have been so registered with effect from the date on which the application for registration has been entered in the day-book.”.

15. In section 22 of the principal Act, for the words “all other rights and interests whatsoever.” there shall be substituted the words “all other rights and interests whatsoever:

Amendment of section 22 of the principal Act.

Provided that if the Minister, in virtue of the provisions of section 16 of this Act, directs that any or all of such rights or overriding interests shall be registered, the provisions of this section shall not apply with regard to those rights or interests which have to be registered but are not so registered.”.

Amendment of section 23 of the principal Act.

16. Section 23 of the principal Act shall be amended as follows:-

(a) the present provision shall be renumbered as subsection (1) thereof;

(b) in the new subsection (1), the word “only” shall be deleted; and

(c) immediately after subsection (1) there shall be added the following new subsection:

“(2) Without prejudice to sections 16A and 46 of this Act, the registrar shall, unless an application for the interruption of prescription or other caution having the same effect has been lodged, convert a possessory title into an absolute title on the lapse of ten years from first registration.”.

Amendment of section 24 of the principal Act.

17. Section 24 of the principal Act shall be amended as follows:-

(a) the marginal note thereof shall be substituted by the following: “Registration with a qualification.”;

(b) in subsection (1) thereof, the words “an absolute title is required, and” shall be deleted and for the words from “in the register;” to the words “a qualified title.” there shall be substituted the words “in the register.”; and

(c) in subsection (2) thereof for the words “with a qualified title” there shall be substituted the words “with a title qualified in terms of this section”, and for the words from “with an absolute title” to the words “a qualified title” there shall be substituted the words “with an absolute or possessory title as the case may be, save that such registration”.

Amendment of section 26 of the principal Act.

18. Section 26 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof, for the words “or any part thereof in the same manner and to the same extent as if the land had not been registered.” there shall be substituted the words “or any part thereof, and upon such transfer an application shall be submitted within fifteen days from the date of deed of transfer, the notary publishing the deed shall make a reference therein to the certificate of title number whereby the transferred land is registered; and where a notary fails to make such reference, an extra fee for the registration of such transfer as may be prescribed, shall be due by such notary.”; and

(b) for subsection (2) thereof, there shall be substituted the following:

“(2) The transfer of registered rights over the land or part thereof shall be completed by the registrar entering, on the certificate, the transferee as the proprietor of the rights transferred on application made in virtue of subsection (1) of this section; and where part only of the land is transferred, this shall also be noted, and separate certificates showing the different parts owned shall be issued: and the provisions of subsection (3) of section 21 shall apply *mutatis mutandis* to the registration of such transfers.”.

19. Section 27 of the principal Act shall be amended as follows:

Amendment of section 27 of the principal Act.

(a) for the words “with a qualified title” in subsection (2) thereof, there shall be substituted the words “an absolute title qualified in terms of section 24 of this Act”; and

(b) in subsection (3) thereof for the words “if the land had been registered with an absolute title.” there shall be substituted the words “if the land had been registered with an absolute title:

Provided that where the land was registered with a possessory title qualified in terms of section 24 of this Act, such disposition shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted.”.

20. Immediately after section 28 of the principal Act there shall be added the following new section:

Addition of new section 28A of the principal Act.

“Charges on land situate in a registration area but not registered.

28A. (1) Land situate in a registration area, but which has not been registered, may, subject to the following provisions of this section, be charged by agreement, by operation of law or by judgement to the same extent and in the manner as if that land had been registered.

(2) A charge registered in accordance with subsection (1) of this section shall be subject to the condition that on the date of the application for its registration, the debtor was an owner of the land subject to such charge and was not in any way incapacitated from charging the land, and shall affect the land subject to it only to the extent that the debtor is the owner of, or has an interest in, such land.

(3) Subject to the provisions of subsection (2) of this section, a charge registered in accordance with subsection (1) of this section shall affect any person acquiring the land to the same extent and in the same manner as if such land had been registered and that charge had been a charge in respect of that registered land.

(4) When the registrar receives an application for the registration of the land subject to the charge registered in accordance with subsection (1) of this section, he shall, if the person applying for the registration is the debtor referred to in the charge or derives title from such a debtor who was the owner of such land and to the extent of such ownership, register the charge as a charge on the title to the land so registered.

(5) Without prejudice to the foregoing provisions of this section, a charge registered in accordance with subsection (1) of this section shall have the same effect as a caution lodged with the registrar to the effect that the land subject to the charge shall not be registered for the first time in favour of any person until notice has been served upon the proprietor of the charge; and subsection (3) of section 35 and section 37 of this Act shall apply to a proprietor of a charge registered in accordance with subsection (1) of this section as they apply to cautioner.”.

Substitution of section 30 of the principal Act.

21. For section 30 of the principal Act there shall be substituted the following:

"Charge effective only if registered.

30. A charge shall not affect a person acquiring any registered land or right thereon unless the charge is protected by an entry on the register. Where such entry is made it shall be deemed to have been made on the date on which the application therefor has been entered in the day-book.”.

Amendment of section 31 of the principal Act.

22. In section 31 of the principal Act for the words “in which they are entered on the register, and not according to the order in which they are created.” there shall be substituted the words “of the progressive number relative thereto in the day-book.”.

Amendment of section 32 of the principal Act.

23. Section 32 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof, for the words “the Public Registry Act.” there shall be substituted the words “the Public Registry Act, and the provisions of section 12 of this Act shall also apply to such transfers.”;

(b) in subsection (2) thereof for the words “but the transferor shall be deemed to remain proprietor of the charge until the name of the transferee is entered on the register in respect thereof.” there shall be substituted the words “and the registrar shall issue a charge certificate specifying the details relative to such charge in the prescribed manner, and he shall also annotate the charge number on the certificate of title when this is completed.”; and

(c) immediately after subsection (2) thereof, there shall be added the following subsection:

“(3) The provisions of section 26 of this Act shall, *mutatis mutandis*, apply to transfers of charges under this section.”.

24. Section 33 of the principal Act shall be amended as follows:

Amendment of section 33 of the principal Act.

(a) the present provision shall be renumbered as subsection (1); and

(b) immediately after subsection (1) thereof as renumbered there shall be added the following subsection:

“(2) Charges shall be extinguished in the same manner as is provided in the Civil Code for the extinction of hypothecs and privileges.”.

25. For subsection (3) of section 34 of the principal Act there shall be substituted the following:

Amendment of section 34 of the principal Act.

“(3) The registration of a successor in place of the proprietor under this section may be qualified in the same manner as is provided in section 24 of this Act even if the land is registered without such qualification.”.

26. Section 35 of the principal Act shall be amended as follows:

Amendment of section 35 of the principal Act.

(a) in subsection (1) thereof for the words “in land not registered as entitles him to object” there shall be substituted the words “in land which is not already registered or in respect of which no application for first registration has yet been made, as entitles him to object”;

(b) the present subsections (2) and (3) shall be renumbered (3) and (4) respectively; and

(c) immediately after subsection (1) thereof there shall be added the following subsection:

“(2) Notwithstanding any other law, any interruption of prescription, as well as any other right relating to a prohibition of transfer of property by a deed *inter vivos*, shall be of no effect with regard to land in a registration area unless it is registered as a caution at the Land Registry in the prescribed manner.”.

27. Subsection (1) of section 36 of the principal Act shall be amended as follows:

Amendment of section 36 of the principal Act.

(a) in paragraph (e) thereof, for the words “any such land,” there shall be substituted the words “any such land; or”; and

(b) immediately after paragraph (e) thereof, there shall be added the following paragraph:

“(f) having an interest or right as is referred to in subsection (2) of section 35 of this Act.”.

Amendment of section 37 of the principal Act.

28. Immediately after subsection (4) of section 37 of the following principal Act, there shall be added the following new subsections:

“(5) A person shall not be deemed to have registered a caution without reasonable cause for the purposes of subsection (3) of this section, in so far as and to the extent that, in the plans lodged with the caution, in good faith and without negligence, he may have included land which ought not to have been so included.

(6) The lodgement of a caution is not an application for the registration of the claim or title in protection of which the caution is lodged and shall not exempt the person lodging the caution from the filing of the relevant applications, if any, for the registration of any title or claim.”.

Deletion of Parts VA and VI of the principal Act.

29. Parts VA and VI of the principal Act shall be deleted.

Amendment of section 43 of the principal Act.

30. Subsection (1) of section 43 of the principal Act shall be amended as follows:

(a) for paragraph (e) thereof there shall be substituted the following:

“(e) in the case of a possessory title or a title qualified in terms of section 24 of this Act, all rights, interests and powers expected from the effect of registration;” and

(b) immediately after paragraph (h) thereof there shall be added the following paragraph:

“(hh) special privileges and special hypothecs encumbering the land and registered in the Public Registry before the land encumbered became compromised in a registration area;”.

Amendment of section 49 of the principal Act.

31. For subsection (1) of section 49 of the principal Act there shall be substituted the following:

“(1) (a) Upon the lapse of the time referred to in subsection (2) of section 23 of this Act, the registrar shall, subject to the following subsection of this section after giving such notice, if any, as may be prescribed, register such title as an absolute title whether the proprietor consents to such registration or not.

(b) Where the registrar is satisfied that either as a result of the additional evidence produced to him or otherwise in his possession, or as a result of time, or as a result of both, he may, subject to the following provisions of this section and any other provision of this Act, after giving such notices, if any, as may be prescribed, remove any qualification entered in the register in terms of this Act, whether the proprietor consents to such removal or not.”.

32. In subsection (1) of section 57 of the principal Act, for the words “or any land or charge certificate” there shall be substituted the words “or any other document held at the Land Registry”.

Amendment of section 57 of the principal Act.

33. For paragraph (p) of subsection (2) of section 59 of the principal Act there shall be substituted the following:

Amendment of section 59 of the principal Act.

“(p) provide for any matter ancillary to or consequential to the computerisation of the Land Registry;”.

34. Part VA and the corresponding entry and Part VI and the corresponding entry in the “Arrangement of the Act” in the principal Act shall be deleted.

Amendment of “Arrangement of Act” of the principal Act.

35. (1) On the coming into force of section 29 of this Act, no applications for a cautionary charge shall be entertained, and any cautionary charge entered in the Land Registry prior to the coming into force of the said section shall be deemed to be a charge entered in accordance with section 28A as introduced by section 20 of this Act.

Transitory Provisions.

(2) All Land and Charge Certificates issued prior to the coming into force of section 29 of this Act shall be admissible in evidence only as proof of their contents as on their date of issue.

(3) Where prior to the coming into force of section 9 of this Act, on the opening of succession of any person, the title to the land comprised in the transmission and situated in any registration area has not been registered in the name of the persons in whose favour such land may have passed, it shall be deemed that the provisions of section 14 of the principal Act, as in force prior to the coming into force of section 9 of this Act, did not apply to any such land:

Provided that the Land Registrar may, after giving such notice as he may deem fit, register such land in the name of the persons in whose favour such land may have passed or in the name of their successors in title, in accordance with the provisions of the principal Act as amended by this Act, and the provisions of the principal Act empowering the said registrar to require any person to produce any document or information shall apply also for the purposes of this proviso.

(4) The titles to the land registered in virtue of Legal Notice Number 37 of 1983, and listed in the following subsection of this section shall be deemed to have been duly and regularly registered in accordance with the provisions of the principal Act and any dealing with such land after the coming into force of this subsection shall be registerable in the Land Registry as if such land were situate in a registration area:

Provided that any transfer or charge in relation to such land registered in the Public Registry after the issue of the said Legal Notice and before the coming into force of this subsection shall be deemed to be an overriding interest and the provisions of section 43 of the principal Act shall apply thereto.

(5) The titles to the land to which subsection (4) hereof applies are the following:

From Certificate of Title Number 547200001 to Certificate of Title Number 547200009 both numbers inclusive.

(6) Where before the coming into force of this Act, a qualified title has been issued by the registrar in accordance with the provisions of the principal Act as in force prior to the coming into force of this Act, it shall be deemed to be a title registered in accordance with the corresponding provisions of the principal Act as amended by the provisions of this Act, qualified in accordance with section 24 of the principal Act as amended by the provisions of this Act.”.

Objects and Reasons

The main Object of the Bill is to facilitate the registration of titles in the Land Registry thus making it possible to complete the total registration of all land in Malta in a shorter time. The Bill also provides for other measures relating to a better functioning of the Land Registry.